

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
Civil Action No.:

FILED
CHARLOTTE, N.C.

2004 SEP 22 PM 3:46

U.S. DISTRICT COURT
W. DIST. OF N.C.

CRYSTAL EILEEN ARMSTRONG,

Plaintiff,

v.

EQUIFAX INFORMATION SERVICES,
LLC,

Defendant.

NOTICE OF REMOVAL

Equifax Information Services LLC ("Equifax"), named as defendant in the above-captioned action, hereby files this Notice of Removal of this action from the General Court of Justice, Superior Court Division, County of Mecklenburg, in which this action is now pending, to this Court. This Notice of Removal is filed pursuant to 28 U.S.C. §§1441 and 1446. In support hereof, Equifax states as follows:

1. An action was commenced against Equifax in the General Court of Justice, Superior Court Division, County of Mecklenburg, entitled Crystal Eileen Armstrong v. Equifax Information Services LLC, Case No. 04-CVS-15464 (the "State Court Action") by filing the Summons and Complaint and serving a copy of each upon Equifax on September 1, 2004. Copies of the Summons and Complaint served with the Complaint are collectively attached to this Notice of Removal as Exhibit "A".

2. To the best of the knowledge of Equifax, no other proceedings, process, pleadings, orders or other papers have been filed or served in the State Court Action.

3. This Court has original jurisdiction over this case pursuant to 28 U.S.C. §1331, in that this is a civil action arising under the constitution, laws or treaties of the United States; specifically under 15 U.S.C. §§1681, et seq., otherwise known as the Fair Credit Reporting Act, as follows:

(a) Plaintiff's complaint alleges that Equifax violated the Fair Credit Reporting Act, 15 U.S.C. §§1681, et seq. (Complaint, ¶¶ 13 through 19).

(b) The Fair Credit Reporting Act, pursuant to 15 U.S.C. §1681p, provides that "any action brought under this chapter may be brought in any appropriate United States District Court without regard to the amount in controversy."

4. This Notice of Removal is filed within thirty days of the receipt of the Summons and Complaint by Equifax.

5. The State Court in which this action was commenced is within this Court's district and division.

6. This Notice of Removal will be filed in the General Court of Justice, Superior Court Division, County of Mecklenburg, and a copy of this Notice of Removal will also be served on Plaintiff.

WHEREFORE, Equifax prays that the above-described action now pending in the General Court of Justice, Superior Court Division, County of Mecklenburg, be removed to this Court.

Respectfully submitted this 22nd day of September, 2004.

KILPATRICK STOCKTON LLP



C. Marshall Lindsay
North Carolina Bar No. 25686
Suite 2500
214 North Tryon Street
Charlotte, North Carolina 28202-2381
Phone: (704) 338-5000
Attorneys for Defendant

Of Counsel:

J. Anthony Love
KILPATRICK STOCKTON LLP
1100 Peachtree St., Ste. 2800
Atlanta, Georgia 30309-4530
Telephone: (404) 815-6500
Facsimile: (404) 541-3207

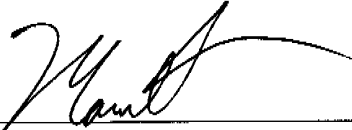
CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of **NOTICE OF REMOVAL** upon the following parties by depositing same in the United States mail, with sufficient postage thereon to insure delivery, and addressed as follows:

insure delivery, and addressed as follows:

John W. Taylor, Esq.
Haley M. Jonas, Esq.
John W. Taylor, P.C.
P.O. Box 472827
Charlotte, NC 28247-2827

This 22nd of September 2004.



C. Marshall Lindsay
Attorney for Defendant

STATE OF NORTH CAROLINA

File No.

04-CVS-15464

Mecklenburg County

In The General Court of Justice

☐ District ☒ Superior Court Division

Name of Plaintiff

Crystal Eileen Armstrong

Address

City, State, Zip

CIVIL SUMMONS

☐ Alias and Pluries Summons

VERSUS

G.S. 1A-1, Rules 3, 4

Name of Defendant(s)

Equifax Information Services, LLC

Date Original Summons Issued

Date(s) Subsequent Summon(es) Issued

To Each of The Defendant(s) Named Below:

Name And Address of Defendant 1

Equifax Information Services, LLC
c/o Corporation Service Company, Registered Agent
327 Hillsborough Street
Raleigh, NC 27603

Name And Address of Defendant 2

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address of Plaintiff's Attorney (If None, Address of Plaintiff)

JOHN W. TAYLOR, P.C.

P.O. Box 472827

Charlotte, NC 28247

Date Issued

Time

AM

PM

Signature

☐ Deputy CSC

☒ Assistant CSC

☐ Clerk of Superior Court

☐ ENDORSEMENT

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date of Endorsement

Time

AM

PM

Signature

☐ Deputy CSC

☐ Assistant CSC

☐ Clerk of Superior Court

NOTE TO PARTIES: Many Counties have MANDATORY ARBITRATION programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

AOC-CV-100, Rev. 10/01

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(Over)

A

STATE OF NORTH CAROLINA FILED IN THE GENERAL COURT OF JUSTICE
COUNTY OF MECKLENBURG. 04 AUG 27 AM 11:04 SUPERIOR COURT DIVISION
CRYSTAL EILEEN ARMSTRONG, MECKLENBURG CO., C.S.C. FILE NO. 04-CVS-15464
Plaintiff,)
vs.)
EQUIFAX INFORMATION SERVICES, LLC,) COMPLAINT
Defendant.) (JURY TRIAL DEMANDED)

The Plaintiff, complaining of the acts of the Defendant, says and alleges:

1. This is an action to recover damages under the Fair Credit Reporting Act and North Carolina law and for declaratory and injunctive relief.
2. The Plaintiff is a citizen and resident of Mecklenburg County, North Carolina.
3. Upon information and belief, the Defendant Equifax Information Services, LLC ("Equifax"), is a limited liability company organized and existing under the laws of the state of Georgia and it is authorized to do business in the State of North Carolina and is engaged in substantial business activity within the state of North Carolina.
4. Upon information and belief, on or around October 5, 1999, a 1996 Chevrolet Blazer ("vehicle") was purchased from Town & Country Ford using the Plaintiff's social security number and other personal information. At the time the vehicle was purchased, the Plaintiff was unaware of the purchase and the Plaintiff had no involvement in or knowledge of the purchase of the vehicle. A copy of the Simple Interest Motor Vehicle Contract and Security Agreement (collectively "Contract") is attached hereto as Exhibit "A."
5. Upon information and belief, on or around October 5, 1999, the Motor Vehicle Contract was assigned to AmeriCredit Financial Services, Inc ("AmeriCredit").
6. AmeriCredit has represented to the Defendant that the Plaintiff was indebted to it under the Contract. This representation was false, deceptive and misleading.
7. The Defendant has included the false, deceptive and misleading information in the credit file of the Plaintiff causing it to appear on consumer reports regarding the Plaintiff provided to third parties.
8. The Plaintiff's credit worthiness has been repeatedly compromised by the acts and omissions of the Defendant.

9. On or about June 10, 2004, the Plaintiff disputed by letter, the inclusion of the false, deceptive, and misleading information in her credit file with the Defendant.

10. With the June 10, 2004 letter, the Plaintiff enclosed a copy of her current driver's license and a copy of the police report she filed on November 26, 2000. The Plaintiff also enclosed documents she obtained from Town & Country Toyota, including a copy of the driver's license of the person who stole the Plaintiff's personal information to obtain the vehicle, a copy of the Town & Country Buyer's Order dated October 5, 1999 and a copy of the Consumer Credit Sale Contract dated October 5, 1999.

11. In response to the letter and the enclosures provided to the Defendant by the Plaintiff, the Defendant verified to the Plaintiff that the AmeriCredit account belonged to her and refused to remove the false, deceptive and misleading information from the Plaintiff's credit file.

12. As a result, the Defendant failed in its duties to reinvestigate the information disputed by the Plaintiff.

13. As a result of the derogatory information reported by the Defendant, Plaintiff has had adverse action taken on existing credit accounts, has been denied credit and has abstained from applying for credit.

FIRST CAUSE OF ACTION (Declaratory Judgment)

14. All preceding paragraphs are realleged and incorporated by reference as if fully set forth herein.

15. Pursuant to Article 26, Chapter 1 of the North Carolina General Statutes, the Plaintiff is entitled to a declaration that she is not indebted to AmeriCredit and that the false, deceptive and misleading information should not be included in the Plaintiff's credit file.

SECOND CAUSE OF ACTION (Violation of the Fair Credit Reporting Act)

16. All preceding paragraphs are realleged and incorporated by reference as if fully set forth herein.

17. The Plaintiff is a consumer as contemplated by the FCRA section 1681a(c).

18. The Defendant is a consumer reporting agency as defined in section 1681(f) of the FCRA regularly engaged in the business of assembling, evaluating, and dispersing information concerning consumers for the purpose of furnishing consumer reports, as defined in section 1681a(d) of the FCRA, to third parties.

19. The Defendant willfully and/or negligently violated the provision of the FCRA as follows:

- a. By failing to follow reasonable procedures to assure maximum possible accuracy of the information in reports during the preparation of the consumer reports concerning the Plaintiff;
- b. By failing to delete incomplete and inaccurate information in Plaintiff's file after conducting a reinvestigation, in violation of section 1681i(a);
- c. By failing to comply with FCRA section 1681i.

20. As a result of the Defendant's violations of the FCRA, the Plaintiff suffered actual damages, including injury to her credit reputation and has suffered undue worry, anxiety and loss of happiness.

THIRD CAUSE OF ACTION (Defamation)

21. All preceding paragraphs are realleged and incorporated by reference as if fully set forth herein.

22. The Defendant has falsely represented that the Plaintiff is indebted to AmeriCredit.

23. The false representations caused actual damages to the Plaintiff, including injury to credit reputation, undue worry, anxiety and loss of happiness.

24. The false representations were made willfully, maliciously and made with an intent to injure the Plaintiff or were made with a reckless and wanton disregard for the truth.

25. The Plaintiff is entitled to recover actual and punitive damages from the Defendant as a result of the false representations.

FOURTH CAUSE OF ACTION (Unfair and Deceptive Trade Practices)

26. All preceding paragraphs are realleged and incorporated by reference as if fully set forth herein.

27. The actions of the Defendant constitute unfair and deceptive practices in violation of N.C.G.S. § 75-1.1.

28. The Plaintiff has suffered actual damages as a proximate cause of the Defendant's actions.

29. The Plaintiff is entitled to recover from the Defendant treble damages in excess of \$10,000 and attorney fees pursuant to N.C.G.S. §§ 75-16 and 75-16.1.

FIFTH CAUSE OF ACTION
(Injunctive Relief)

30. All preceding paragraphs are realleged and incorporated by reference as if fully set forth herein.

31. The Plaintiff is entitled to an order requiring the Defendant to remove any and all information regarding the AmeriCredit account from her credit file and to an order enjoining the Defendant from ever including the AmeriCredit account in her credit file in the future and from ever representing to any third party that the Plaintiff is indebted to AmeriCredit on that account.

WHEREFORE, the Plaintiff respectfully prays the Court:

1. That the Court declare she is not indebted to AmeriCredit and that the false, deceptive and misleading information should not be included in the Plaintiff's credit file.

2. That the Court enter an order requiring the Defendant to remove any and all information regarding the AmeriCredit account from her credit file and to an order enjoining the Defendant from ever including the AmeriCredit account in her credit file in the future and from ever representing to any third party that the Plaintiff is indebted to AmeriCredit on that account.

3. That she have and recover from the Defendant actual and treble or punitive damages in an amount in excess of \$10,000.00 to be determined by trial.

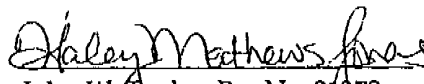
4. That she have and recover from the Defendant the costs of this action, together with a reasonable attorney's fee pursuant to the Fair Credit Reporting Act and N.C. G. S. Section 75-16.1.

5. That she have a trial by jury.

6. That she have and recover from the Defendant such other and further relief as may be just and proper.

DATED this 25th day of August 2004.

JOHN W. TAYLOR, P.C.


John W. Taylor, Bar No. 21378
Haley M. Jonas, Bar No. 30631
Attorneys for Plaintiff
P.O. Box 472827
Charlotte, NC 28247-2827
704-540-3622

THIS CONSUMER CREDIT SALE DOCUMENT

SIMPLE INTEREST MOTOR VEHICLE CONTRACT AND SECURITY AGREEMENT

| | | |
|---|---------------------------------------|--------------------------------------|
| BUYER'S NAME CHRISTINA ARMSTRONG | DATE OF CONTRACT 10/05/1999 | Block No. L3302A |
| BUYER'S RESIDENCE OR PLACE OF BUSINESS 3144-D CENTRAL AVE CHARLOTTE, NC 28205 | AGREEMENT NO. | Source |
| CO-BUYER'S NAME AND ADDRESS | | Salesperson LERANCE WILKERSON |
| | | Date 10/05/1999 |
| | | Bus. Phone (704) 569-7598 |
| | | Res. Phone (704) 569-2112 |

In this contract the words "we," "us" and "our" refer to the creditor (seller) named below or, upon any assignment, its assignee. The words "you" and "your" refer to the buyer and co-buyer if any named herein and to the heirs, executors, administrators and assigns of such buyer and co-buyer. We sell you the motor vehicle described below (the "vehicle") on credit. The credit price is shown below as the "Total Cash Price." The "Cash Price" is also shown below. By signing this contract you choose to buy the vehicle on credit and agree to pay the Amount Financed, along with a Finance Charge at the Annual Percentage Rate shown below on the unpaid principal balance of the Amount Financed until paid, according to the schedule, terms and agreements shown on the front and back of this contract. If this contract is signed by a buyer and co-buyer, each is individually and together responsible for all agreements in the contract.

SEE OTHER SIDE FOR ADDITIONAL TERMS AND AGREEMENTS:

| | | | | | | | |
|-------------------------|--------------------------|----------------------|---------------------|------------------------|-------------------|----------------------------------|---|
| NEW/USED USED | MAKE CHEVROLET | TYPE TRUCK | DRIVE 4X4 | MODEL BLAZER | YEAR 94 | ODOMETER READING 34182 | VEHICLE IDENTIFICATION NUMBER 1GNWT13W2T2305630 |
| KEY NO. | CR. NO. | AGE NO. | | | | | |

DISCLOSURES PURSUANT TO THE TRUTH-IN-LENDING ACT

| ANNUAL PERCENTAGE RATE | FINANCE CHARGE | Amount Financed | Total of Payments | Total Sale Price |
|---|---|---|--|---|
| The cost of your credit as a yearly rate. | The dollar amount the credit will cost you. | The amount of credit provided to you or on your behalf. | The amount you will have paid after you have made all payments as scheduled. | The total cost of your purchase on credit, including your down payment of \$ 3000.00. |
| 19.95 % | \$ 10090.44 | (e) \$ 17162.16 | \$ 27252.50 | (e) \$ 30252.50 |

YOUR PAYMENT SCHEDULE WILL BE:

| Number of Payments | Amount of Payments | When Payments Are Due |
|-----------------------|--------------------|--------------------------------------|
| One Payment of | N/A | |
| One Payment of | N/A | |
| 59 Payments of | 454.21 | Monthly, beginning 11/04/1999 |
| One Final Payment of | 454.21 | 10/04/2004 |

SECURITY: You are giving a security interest in the goods or property being purchased.

(e) means an estimate

LATE CHARGES: If any payment is more than 10 days late you will be charged the lesser of \$6 or 5% of the installment past due.

PREPAYMENT: If you pay off early, you may have to pay a penalty.

See the remainder of this document for any additional information about nonpayment, default and any required prepayment in full before the scheduled date.

If you are buying a used vehicle with this contract, as indicated in the description of the vehicle above, federal regulations may require a special buyer's guide to be displayed on the window.

THE INFORMATION YOU SEE ON THE WINDOW FORM FOR THIS VEHICLE IS PART OF THIS CONTRACT. INFORMATION ON THE WINDOW FORM OVERRIDES ANY CONTRARY PROVISIONS IN THE CONTRACT OF SALE.

El usado está comprando un vehículo usado mediante este contrato según la descripción del vehículo arriba. La ley federal podrá exigir que la ventanilla demuestre una guía especial para el comprador.

LA INFORMACIÓN QUE USTED VE EN LA FORMA DE VENTANILLA PARA ESTE VEHÍCULO ES PARTE DE ESTE CONTRATO. LA INFORMACIÓN EN LA FORMA DE VENTANILLA DOMINA CUALESQUIER STIPULACIONES CONTRARIAS EN EL CONTRATO DE VENTA.

STATEMENT OF INSURANCE

NOTICE: No policy is required as a condition of financing the purchase of a motor vehicle. To purchase, or negotiate, any insurance through a particular insurance company, agent or broker, you have requested Seller to include in the balance due under this contract the following insurance. Insurance is to expire WITH ☐ BEFORE ☐ AFTER ☐ the due date of the final installment. Buyer requests Seller to procure insurance on the vehicle against fire, theft, and collision for the term of this contract. Any insurance will not be in force unless accepted by the insurance carrier.

| | | |
|------------|----------------------------------|------------|
| N/A | MAXIMUM | N/A |
| N/A | COMP. FIRE & THEFT | N/A |
| N/A | REDUCIBLE COLLISION | N/A |
| N/A | UNLIMITED | N/A |
| N/A | PROPERTY DAMAGE | N/A |
| N/A | LIMITS | N/A |
| N/A | MECHANICAL | N/A |
| N/A | MECHANICAL | N/A |
| N/A | TOTAL VEHICLE INSURANCE PREMIUMS | N/A |

Name of Insurer

Signature of Buyer

Signature of Seller

Signature of Buyer

Signature of Seller

Signature of Buyer

Signature of Seller

Signature of Buyer

Signature of Seller

Signature of Buyer

Signature of Seller

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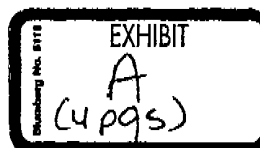
Signature of Seller

Signature of Buyer

Signature of Seller

ITEMIZATION OF AMOUNT FINANCED

| | |
|--|---------------------------|
| A. Cash Price Motor Vehicle and Accessories | \$ 17772.00 (A) |
| 1. Cash Price Vehicle | \$ 17772.00 |
| 2. Cash Price Accessories | N/A |
| B. Sales Tax | \$ 533.16 (B) |
| C. Luxury Tax | N/A (C) |
| D. Service Contract (optional)** | \$ 1500.00 (D) |
| * See Service Contract Box below | |
| E. Other | N/A (E) |
| To whom paid | |
| F. Other | \$ 299.50 (F) |
| To whom paid | TOWN & COUNTRY TOYOTA INC |
| G. Other | N/A (G) |
| To whom paid | |
| TOTAL CASH PRICE (1A to G) | \$ 20104.66 (1) |
| A. Trade-In (Description) | |
| Yr Make | |
| Model | \$ N/A (A) |
| V.I.N. | |
| Odometer | |
| B. Less Prior Credit or Loan Payoff | \$ N/A (B) |
| C. NET TRADE-IN (A minus B) | \$ N/A (C) |
| D. Cash Downpayment | \$ 3000.00 (D) |
| E. Manufacturer's Rebate | \$ N/A (E) |
| TOTAL DOWNPAYMENT (2C + D + E) | \$ 3000.00 |
| (If negative, enter "0" and see line 5C below) | |
| NET CASH PRICE (1 minus 2) | \$ 17104.66 (2) |
| AMOUNTS PAID TO PUBLIC OFFICIALS | |
| A. License | \$ 57.50 (A) |
| B. Registration | \$ N/A (B) |
| C. Title | \$ N/A (C) |



JAN. 19. 2001 2:14PM

...dealer insurance company, agent or broker. You have a ... Seller ...
...include in the balance due under this contract the following ... insurance ...
...insurance is to expire WITH ☐ BEFORE ☐ AFTER ☐ the due date of the ...
...and installment. Buyer requests Seller to procure insurance on the vehicle ...
...against fire, theft, and collision for the term of this contract. Any insurance will ...
...be in force until accepted by the insurance carrier.

| | | | |
|-----|---------------------------|---------|-----|
| N/A | DED., COMP., FIRE & THEFT | Max. \$ | N/A |
| N/A | DEDUCTIBLE COLLISION | Max. \$ | N/A |
| N/A | PROPERTY DAMAGE | Max. \$ | N/A |
| N/A | PROPERTY DAMAGE | Max. \$ | N/A |
| N/A | PROPERTY DAMAGE | Max. \$ | N/A |
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| N/A | PROPERTY DAMAGE | Max. \$ | N/A |
| N/A | PROPERTY DAMAGE | Max. \$ | N/A |

...no of insurer
05/1999 X TOWN & COUNTRY X

CREDIT INSURANCE AUTHORIZATION AND APPLICATION
You voluntarily request the credit insurance checked below, if any, and understand that such insurance is not required. You acknowledge disclosure of the cost of such insurance and authorize it to be included in the balance payable under this contract. Any returned or refunded credit insurance premiums shall be applied to sums due under this contract. Only the persons whose names are signed below are insured.

| | | | |
|------------------------------------|-----|-----------------|-----|
| CREDIT LIFE | N/A | Max. Premium \$ | N/A |
| JOINT LIFE | N/A | Max. Premium \$ | N/A |
| CREDIT ACCIDENT & HEALTH | N/A | Max. Premium \$ | N/A |
| JOINT CREDIT ACCIDENT & HEALTH | N/A | Max. Premium \$ | N/A |
| TOTAL CREDIT INSURANCE PREMIUMS \$ | | | N/A |

...no of insurer
☐ You want Credit Life Insurance ☒ You do not want Credit Life Insurance
☐ You want Credit Accident and Health Insurance
☐ You want Joint Credit Life Insurance
☐ You want Joint Credit Accident and Health Insurance
☐ You do not want Credit Accident and Health Insurance

The boxes above are checked to indicate that you desire Credit Life or Credit Accident and Health Insurance, or both, your signature below means that you agree that you elect the insurance shown above subject to the eligibility requirements, conditions and exclusions set forth in your insurance policy(ies) or certificate(s). If the boxes above are checked to indicate that you do not want Credit Life or Credit Accident and Health Insurance, or both, your signature below acknowledges that fact.

05/1999 X *Christie Brantley* 28
NAME BUYER AGE
X
NAME CO-BUYER AGE

☐ You ... finance charge if the Amount Financed, Item 8, is paid in full on or ... Year ... SELLER'S INITIALS

THERE IS NO COOLING OFF PERIOD

The law does not provide for a "cooling off" or other cancellation period for this sale. Therefore, you cannot later cancel this contract simply because you change your mind, decide the vehicle costs too much, or wish you had acquired a different vehicle. After you sign below, you may only cancel this contract with our agreement or for legal cause, such as fraud.

Buyer and Co-Buyer acknowledge that (1) before signing this contract Buyer and Co-Buyer have read both sides of this contract and received a legible, completely fill-in copy of this contract; and (2) Buyer and Co-Buyer have received a copy of every other document that Buyer and Co-Buyer signed during the contract negotiation; and (3) they execute this contract under seal and adopt as their seal the "(Seal)" next to the signature of each.

Signature *Christie Brantley* (Seal) Seller
Signature *[Signature]* (Seal) Buyer
TOWN & COUNTRY TOYOTA INC
9101 SOUTH BLVD CHARLOTTE NC 28273 (Seal)
BY X *[Signature]* (Seal) Seller's Agent

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ADDITIONAL TERMS AND AGREEMENTS

PROMISE TO PAY: You promise to pay the downpayment and amount financed, plus the finance charges on the amount financed as shown in the Payment Schedule, even if the vehicle is damaged, destroyed, or missing.

SIMPLE INTEREST CONTRACT: This is a simple interest contract. The Finance Charge, Total of Payments and Payment Schedule shown may differ from the amount you will ultimately have to pay if your payments are not received on their exact due dates or the Seller adds amounts to the amount you owe for any of the reasons stated below. For example, early payments would reduce your final payment, while late payments and additions to the amount you owe would increase it. Your final payment may be different from the amount shown for at our option, we may require you to make additional payments until all amounts you owe are paid in full. If the Seller figured the Payment Schedule assuming equal monthly payment periods and other factors permitted under the Truth in Lending Act, your promise to pay requires you to pay the final payment on the date due even if it is different from the amount shown for any of these reasons.

SECURITY INTEREST: You hereby grant us a security interest under the Uniform Commercial Code in the vehicle, which security interest secures all sums which may become due under this contract, as well as any modifications, extensions, renewals, amendments, or re-financing of it.

USE OF VEHICLE: You agree to keep the vehicle free of all taxes and liens, except in favor of Seller, and not to use the vehicle or permit the vehicle to be used—illegally, improperly, or for hire, or to expose the vehicle to misuse, abuse, or confiscation, or other involuntary transfer, even if the vehicle was not the subject of judicial or administrative action. You agree not to make any material change in the vehicle or allow any material change in it to be made, or to remove the vehicle, or allow it to be removed from your state of residence as shown in this contract for a period in excess of 30 days or transfer any interest in the vehicle. You agree to keep the vehicle in good working condition and make all necessary repairs. You agree not to remove the vehicle, nor to permit its removal, from this country. Although we are not obligated to do so, if we elect to pay any taxes, fees or taxes in connection with the vehicle, or to expend any other amount to protect our interest in the vehicle, you will reimburse us, at our option, (i) upon our demand upon you to do so or (ii) we may add the dollar amount of any such taxes, fees, taxes or other charges we pay to the balance of this contract, accruing Finance Charge, from the time we pay such amounts until the time you pay them to us, at 16% per annum. In the alternative, we may charge the Annual Percentage Rate shown on the face of this contract, if permitted by law. Such dollar amount and Finance Charge will be due at maturity of this contract or, at our option, in monthly installments due on the remaining payment dates shown on the face of this contract.

INSURANCE: You agree to keep the vehicle insured in our favor with a policy satisfactory to us and with an insurer authorized to do business in the jurisdiction in which the vehicle is registered, with comprehensive fire, theft and collision coverage, insuring the vehicle in an amount sufficient to cover the value of the vehicle. You agree to deliver the policies to us, and you agree that we may: (i) contact your insurance agent to verify coverage or to add us as a loss payee or beneficiary, (ii) make any claim under your insurance policy, (iii) cancel any insurance issued under the contract on your default, and (iv) receive any payment of loss or returned premium, and apply the amounts received, at our option, to repair or replace the vehicle or to your obligation under this contract, including indebtedness not yet due. If you fail to maintain such insurance, we may, at our option, procure insurance to protect our interest in the vehicle, and you agree to pay for any insurance we procure and Finance Charges on the premiums at 16% per annum. In the alternative, we may charge the Annual Percentage Rate shown on the face of this contract, if permitted by law, according to the notice we send you. You agree that any insurance we purchase may be for the protection of only our interest in the vehicle, and may be for the remaining term of the contract or any shorter period as we determine. You understand that the insurance premiums may be higher if we must purchase insurance than if you had purchased the insurance yourself. Insurance has been purchased in connection with this contract, any difference between the amounts shown in the Statement of Insurance for premiums which may also cover errors in computation, classification, grouping or zoning, or changes in the type of insurance shall be payable by you on demand. Whether or not the vehicle is insured, you must pay for it if it is lost, damaged, or destroyed.

PREPAYMENT or AMOUNT OWED: You may prepay all amounts due under this contract at any time. To do so, you must pay all accrued Finance Charges to the date of prepayment and any other charges you owe. Upon prepayment in full, if permitted by law, we may, at our option, impose a prepayment charge of 10% of your unpaid balance, not to exceed \$25.

DEFAULT: If you breach any warranty or default in the performance of any promise you make in this contract or any other contract you have with us, including, but not limited to, failing to make any payment when due, or become insolvent, or file any proceeding under the U.S. Bankruptcy Code, or upon your default, or if the vehicle is damaged, destroyed, used for illegal purposes or impounded, we may, at our option and without notice or demand: (1) declare all unpaid sums immediately due and payable subject to any right of reinstatement as required by law; (2) sue against you for all unpaid sums; (3) take immediate possession of the vehicle; (4) exercise any other legal or equitable remedy. Upon repossessing the vehicle and giving notice as required by law, if you do not consent to the sale, we will sell it, together with any accessories, equipment or replacement parts installed therein, at public or private sale. We may purchase the vehicle at any public sale. The proceeds of the sale will be applied first to the expenses of retaking, reconditioning, storing and selling the vehicle, and the remainder will be applied to unpaid sums owing under this contract, including collection costs and reasonable attorneys' fees. If there is any money left over (surplus) it will be paid to you or to another person if required by applicable law. If a balance still remains owing, you promise to pay the same upon demand. If you default or breach this contract you agree to pay Finance Charges at the Annual Percentage Rate shown on the reverse side or if a higher rate is permitted by law, at such higher rate, until all sums owing us are paid in full or until judgment is entered. After judgment, you will pay interest at the lesser of the legal rate or the Annual Percentage Rate, for the purchase of a vehicle for personal, family, household or agricultural purposes; otherwise, you will pay interest at the Annual Percentage Rate shown in this contract. Our remedies are cumulative and taking of any action shall not be a waiver or prohibition of pursuing any other remedy. You agree that upon our default we are entitled to recover from you our reasonable collection costs, including, but not limited to, reasonable attorneys' fees. In addition, if we repossess the vehicle, you grant us and our agents permission to enter upon any premises where the vehicle is located. Any repossession will be performed peacefully. You agree we are entitled to recover from you our reasonable costs and expenses arising out of that repossession, including, but not limited to, any sums we pay third party agents. With respect to any sums we are entitled to recover pursuant to the previous four sentences, you will reimburse us, at our option: (i) upon our demand upon you to do so or (ii) we may add the dollar amount of any such sums, costs and expenses to the balance of this contract, accruing Finance Charge, from the time we pay such amounts until the time you pay them to us, at 16% per annum. In the alternative, we may charge the Annual Percentage Rate shown on the face of this contract, if permitted by law.

WARRANTIES BY BUYER: You promise that you have given true and correct information in your application for credit, you have no knowledge that will render that information untrue in the future, and you understand that we have relied upon the correctness of that information in entering into this contract; that upon request you will provide us with documents and other information necessary to verify any item of information contained in your credit application; that you have given us a true payoff amount on any vehicle traded in and that if it is not correct and greater than the amount shown in this contract, you will pay the excess, to us upon demand; and that any trade-in vehicle described on the reverse of this contract is free from all claims of us except as previously disclosed to us.

POWER OF ATTORNEY: You hereby appoint us, as well as any of our appropriate officers or other employees, as your attorney-in-fact, with full power of substitution, to sign in your name, and stand any and all Certificates of Ownership, Registration Card, applications, affidavits and/or any other documents required or necessary to transfer or convey any and all right, title, interest in and to the vehicle, to any person or persons, and to do and perform any and all other acts necessary or incident to the execution of the powers you hereby grant us, including without limitation endorsing insurance proceeds checks on your behalf, as fully and to all intents and purposes as you might or could do if personally present. This grant of a power of attorney, coupled with an interest, is irrevocable until all your obligations under this contract are fully satisfied or until judgment is entered.

OTHER AGREEMENTS OF BUYER: (1) In the event the estimated Department of Motor Vehicle fees are greater than the amount shown, you will pay the excess to us upon demand. If they are less, we will return the excess to you. (2) You agree that if we accept monies in sums less than those due or make extensions of due dates of payments under this contract, doing so will be a waiver of our right to enforce the contract terms as written. (3) To the extent permitted by law, we may charge you a \$25 fee for the return by a depository institution of a postdated check, if a return order of withdrawal or share draft issued in connection with any payment due under this contract. (4) If the vehicle is repossessed we may store personal property in the vehicle for your account and at your expense, as permitted by law, and if you do not claim the property within 10 days after repossession, we may dispose of the personal property in any manner we deem appropriate without liability to you. (5) If your payment is more than 10 days late you will be charged 5% or 6% of the installment past due, whichever is less. (6) You allow us to inspect the vehicle at any reasonable time and notify us of any change of your address immediately. (7) You acknowledge that we may assign this contract and you agree that assignee will succeed our rights and remedies under this contract and you agree to pay all that is still owed under this contract at the time due, and in the amounts due, to the assignee. (8) Payment of this contract in full may entitle the Certificate of Title or a release of our security interest, as appropriate, and send it to any of you. (9) Any provision of this contract which may be held invalid shall not mean that this contract is unenforceable and the remaining provisions shall continue to be binding. (10) No transfer, renewal, extension, or assignment of interest in this contract will release you from your obligations under this contract. (11) This contract is to be governed by the law of the jurisdiction in which the seller of the vehicle is located, as set forth on the reverse of this contract and, if the vehicle is repossessed hereunder, the law of the jurisdiction in which the repossession occurs may govern such repossession.

All of the agreements between us and you set forth in this contract and no modification of this contract shall be valid unless it is made in writing and signed by you and us. (12) We may obtain a consumer credit report from one of more consumer credit reporting agencies (credit bureaus) in connection with your application and any update, renewal, refinancing, extension or extension of this contract and any affiliate of ours may obtain one or more consumer reports on you. You agree that we may also verify your employment, pay, assets and credit and that anyone receiving a copy of this contract is authorized to provide us with such information. You agree that we, our assignee, any of our affiliates and others may exchange information and financial information (including information in any credit reports) about you. You agree that this includes, but is not limited to, the sharing of information for the purpose of providing consumer services, considering your eligibility for any product or service offered by us or others, and enforcing your obligations to us or our affiliates.

LAY IN ENFORCEMENT: We can delay or waive enforcement of any of our rights under this contract without losing them.

SELLER'S WARRANTIES: You agree that you have verified the description of the vehicle to your satisfaction. UNLESS YOU HAVE BEEN GIVEN A WRITTEN WARRANTY BY THE SELLER OF THE VEHICLE, THERE ARE NO EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE MERCHANTABILITY, SUITABILITY, FITNESS FOR PURPOSE, OR OTHERWISE CONCERNING VEHICLE, PARTS OR ACCESSORIES DESCRIBED HEREIN.

NOTICE: Any notice sent to you will be deemed if mailed to your last known address, which is presumed to be your address as set forth in this contract unless you have given us written notice of a change of your address.

NOTICE: ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY ALLOWED BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

Notice above does not apply if the box for Commercial or Agricultural use is checked on the reverse of this contract.

ASSIGNMENT WITH RECOURSE

JAN 19 2001 2:16PM

any manner without appropriate without liability to you. (5) If you allow us to inspect the vehicle at any reasonable time and notify the assignee with all our rights and remedies under this contract and you agree to pay all that is still owed under this contract at the times due, and in the amounts due, to the assignee. (6) Any provision of this contract which may be held invalid shall not mean that this contract is unenforceable and the remaining provisions shall continue to be binding. (7) You acknowledge that we may assign this contract and you agree that any interest in the contract will release you from your obligations under this contract. (8) This contract is to be governed by the law of the jurisdiction in which the vehicle is located, as set forth on the reverse of this contract and, if the vehicle is repossessed hereunder, the law of the jurisdiction in which the repossession occurs may govern such repossession. (9) All of the agreements between us and you are set forth in this contract and no modification of this contract shall be valid unless it is made in writing and signed by you and us. (10) We may obtain a consumer credit report from one or more consumer credit reporting agencies (credit bureaus) in connection with your application and any update, renewal, refinancing, modification or extension of this contract and any affiliate of ours may obtain one or more consumer reports on you. You agree that we may also verify your employment, pay, assets and debts and that anyone receiving a copy of this contract is authorized to provide us with such information. You agree that this includes, but is not limited to, the sharing of information for the purpose of providing customer service, including your eligibility for any product or service offered by us or others, and enforcing your obligations to us or an affiliate. (11) **DELAY IN ENFORCEMENT:** We can delay or waive enforcement of any of our rights under this contract without losing them. (12) **SELLER'S WARRANTIES:** You agree that you have verified the description of the vehicle to your satisfaction, UNLESS YOU HAVE BEEN GIVEN A WRITTEN WARRANTY BY THE SELLER OF THE VEHICLE. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE MERCHANTABILITY, SUITABILITY, FITNESS FOR PURPOSE, OR OTHERWISE CONCERNING THE VEHICLE, PARTS OR ACCESSORIES DESCRIBED HEREIN. (13) **NOTICE:** Any notice sent to you will be sufficient if mailed to your last known address, which is presumed to be your address as set forth in this contract unless you have given us written notice of a change of your address. (14) **NOTICE:** ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER. (15) The notice above does not apply if the box for Commercial or Agricultural use is checked on the reverse of this contract.

ASSIGNMENT WITH RECOURSE

For value received, the Seller ("Seller") named on the other side of this Simple Interest Motor Vehicle Contract and Security Agreement ("Contract") does hereby sell, assign and transfer to the Assignee ("Assignee") and its successors and assigns ("Assignees") all of Seller's right, title and interest in the Contract, the property described in the Contract ("Property"), and all moneys due and to become due under the Contract. Seller (jointly and severally) agrees to defend, protect, maintain and preserve full performance of the Contract in all its terms and the full payment when due of any and all sums due under the Contract together with collection expenses, costs and reasonable attorney's fees, and agrees to pay Assignee's reasonable attorney's fees and costs incurred in enforcing this Assignment With Recourse. Seller has not assigned the buyer named in the Contract ("Buyer") a loan from any third party, as to be used as all or a part of any downpayment or any other "money" on the Contract, except as expressly stated in the Contract. Seller represents and warrants that its disclosures of federal and state laws applicable to the Contract, including, without limitation, the Federal Truth in Lending Act, the Federal Equal Credit Opportunity Act, state and local laws regarding consumer credit and discrimination in the granting of consumer credit, and regulations promulgated under such laws, have been complied with. Seller agrees to indemnify Assignee against and hold Assignee harmless from all claims, actions, suits, proceedings, costs, expenses, loss, damages and liabilities, including attorney's fees, arising out of, related to, connected with, resulting from or resulting from any contention, whether well founded, baseless or otherwise, that there has been a violation of, or failure to comply with, any such laws in connection with the Contract, whether or not such suit has been commenced against Buyer, and without waiving any rights as to time of repossession. Seller agrees that in the event of default by Buyer or repossession of the Property, Seller will pay to Assignee upon demand the entire balance outstanding under the Contract. Seller waives all rights, defenses, demands and notices under this Assignment With Recourse and all other rights that can be waived in an assignment such as this. Seller agrees to indemnify Assignee from all claims, demands, loss and liability, including attorney's fees, in any way arising from the Property of the making or assignment of the Contract. Seller waives: any and all notice of nonpayment, demand, presentment or protest which may be required under this Assignment With Recourse of its continuation herewith and agrees that any extensions or impairments of remedies which may be granted by Assignee to Buyer shall not in any manner release Seller. In the event that such is included to enforce any of the terms of this Assignment With Recourse, Seller waives the right to change the place of trial from the court originally acquiring jurisdiction. Seller warrants that application has been made for vehicle registration showing Assignee as first lienholder on the title to the Property.

Signed _____ at _____ (Date of City and State)
 _____ (Name of Dealer) (Seal) By _____ (Signature, Firm Member or Owner)

ASSIGNMENT WITHOUT RECOURSE

For value received, the Seller ("Seller") named on the other side of this Simple Interest Motor Vehicle Contract and Security Agreement ("Contract") does hereby sell, assign and transfer to the Assignee ("Assignee") and its successors and assigns ("Assignees") WITHOUT RECOURSE as to the obligation of the Buyer and Co-Buyer for payment (except as may be provided by any provision checked below and in other agreements with the Assignee) all of Seller's right, title and interest in the Contract, the property described in the Contract ("Property"), and all moneys due and to become due under the Contract. Seller (jointly and severally) agrees to defend, protect, maintain and preserve full performance of the Contract in all its terms and the full payment when due of any and all sums due under the Contract together with collection expenses, costs and reasonable attorney's fees, and agrees to pay Assignee's reasonable attorney's fees and costs incurred in enforcing this Assignment Without Recourse. Seller has not assigned the buyer named in the Contract ("Buyer") a loan from any third party to be used as all or a part of any downpayment or any other "money" on the Contract, except as expressly stated in the Contract. Seller represents and warrants: that the Contract represents a bona fide sale and was actually executed in good faith by the Buyer or the Seller; that at the time of such execution the Buyer was of legal age and competent to execute the Contract; that the Property is truly and accurately described in the Contract, and has been delivered to the possession of Buyer; that the amount paid as having been received as a downpayment was actually paid in cash and not in kind; that the merchandise taken in cash was received for not more than the reasonable market value thereof at the time of its receipt; that the terms of sale and payments set forth in the Contract are true and correctly set forth; that Seller has the full and complete title to the Property, subject only to the right of the Buyer; that there are no encumbrances, counterclaims, or equities on the part of Buyer against the amounts payable; that there have been no representations or warranties made to Buyer not contained in the Contract; that all information given concerning Buyer is true and correct; that, to Seller's knowledge, there is no material misstatement in Buyer's credit application submitted to Assignee; and that Seller has no information or reason to suspect that any provision of the Contract will be violated and that Buyer is not a good moral and financial risk. The Contract, and the transaction it evidences, and all disclosures to Buyer and other matters in connection with the Contract are in accordance with applicable federal and state laws, and all applicable federal and state laws and regulations governing the same. Seller agrees not to accept or take possession of payments under the Contract without Assignee's prior written consent. Seller warrants and represents that all the requirements of the Federal Truth in Lending Act, the Federal Equal Credit Opportunity Act, state and federal laws regarding consumer credit and discrimination in the granting of consumer credit, and regulations promulgated under such laws, have been complied with and the Seller hereby agrees to indemnify Assignee and hold Assignee harmless from all claims, actions, suits, proceedings, costs, expenses, loss, damages, and liabilities, including attorney's fees, arising out of, connected with, resulting from or resulting from any contention, whether well founded, baseless or otherwise, that there has been a violation of or failure to comply with, any such laws in connection with the Contract, whether or not such suit has been commenced against Buyer, Seller, or both. Seller agrees that the taking of possession of the Property shall not be deemed an election of remedies, and Seller agrees to pay any deficiency thereafter remaining. If Assignee is required to bring an action against Seller as a result of the breach of any representation or warranty contained in this Assignment, Seller agrees to pay reasonable attorney's fees and court costs incurred by Assignee in such action. Seller consents to extensions of payment or alterations of the Contract or impairment of remedies which may be granted by the Assignee, and waives any and all notice of nonpayment, demand, presentment or protest, which otherwise might be required under this assignment or in connection therewith. Seller hereby waives all liability or limitations and the defense thereof and all other rights that can be waived in an assignment such as this. In the event that such is included to enforce any of the terms of this Assignment Without Recourse, Seller waives the right to change the place of trial from the court originally acquiring jurisdiction. Seller warrants that application has been made for vehicle registration showing Assignee as first lienholder on the title to the Property.

Any of the following, if checked, also apply:
☐ **Guaranty:** Seller, jointly and severally, guarantees the full and punctual payment of the full amount remaining unpaid under the Contract and agrees to repurchase the Contract from the Assignee or other holder, upon demand, for the full amount then unpaid, whether the Contract shall then be in default or not.
☐ **Repossession:** Seller guarantees payment of the full amount remaining unpaid under the Contract and covenants that if default be made in the payment of any installment due under the Contract, to pay the full amount then due to the Assignee or holder, upon redelivery of the vehicle to Seller.
☐ **Guaranteed Purchase:** Seller guarantees, in the event of a default under the Contract, the payment of the full amount of the total amount due under the Contract, and should the net proceeds of the sale of the vehicle be insufficient to pay in full the amount remaining unpaid under the Contract, Seller will, upon demand, pay to the Assignee or other holder the amount of its loss under the Contract.
☐ **Partial Recourse:** Seller guarantees the due and punctual payment of the full amount of any of the Guaranteed Installments and agrees to repurchase the Contract from the Assignee or other holder upon demand if default be made in the full amount of any of the Guaranteed Installments for the full amount then unpaid, but should the Guaranteed Installments be paid punctually and in accordance with the terms of the Contract, the Seller's guaranty shall thereupon cease and no assignment of the assignment shall have the same effect as if made without recourse.

Signed 10-5-99 at Chattanooga, TN
 _____ (Name of Dealer) (Seal) By Samuel Brown (Signature, Firm Member or Owner)